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ABSTRACT

Actions that a college might pursue if they have difficulty meeting their financial obligations on dormitory construction loans are discussed by the president of Kansas Wesleyan University. It is noted that when the administration of the loan program was shifted to the new Department of Education (the Department), the agency pushed to collect all monies in default. Based on the experiences of Kansas Wesleyan, it is suggested that colleges should respond as follows: consider the cause of the problem as well as the default itself, seek a reasonable amount of time at the beginning to find a solution, understand the pressures that the Department of Education is facing, seek an experienced outside counsel who has been through the problem, and move as much as possible to separate future planning and separate financing for each dormitory. It is noted that Kansas Wesleyan did not have the cash necessary to pay the default, and that the college was anxious to avoid liquidating endowment assets that were pledged as collateral against the loan. It is recommended that debates over the Department's policy be avoided, and that the Department be asked for suggestions for the college's plan of action. An outline of the college's plan is included. (SW)

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VIEWPOINT FROM THE CAMPUS

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ABSTRACT

Increasing numbers of colleges are funding themselves in a difficult situation as the Department of Education attempts to carry out an administration directive to college monies in default on housing loans and to bring all agreements current. Our experience indicates that these college should include the following in their response.

1. In a direct and honest fashion, determine the cause of the problem and address that as well as the default itself. Addressing an historical issue without addressing the likelihood of its returning is inadequate.

2. Seek a reasonable amourt of time at the outset to find a solution.

3. Understand the pressures which the Department of Education is dealing with.

4. Seek experienced outside counsel preferably one who has been through the problem.

5. Move as much as possible to separate future planning and separate financing for each of your dormitories.

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The policy of the Department of Housing and Urban Development toward colleges who were having difficulty meeting their financial obligations on dormitory construction loans had been very lenient. Moratoria, both official and unofficial in nature, existed across the country resulting in several dozen institutions and over 200 loans being in a delinquent status.

Administration of the loan program shifted to the new Department of Education and the leniency ended. It ended quickly. With a heavy push by the administration to collect all monies in default, the Department set goals and quotas for the collection of said funds, selected some target institutions and "lowered the boom".

Our college had the dubious distinction of being the first in the country to be so selected so we had no advance warning that it even might occur. On a memorable day in August, 1981, a letter came to my desk from the Deputy Secretary of Education indicating that: 1) we were officially in default by the sum of $430,000, 2) we had sixty (60) days to pay same, and 3) if we did not actions would commence to liquidate endowment assets as were pledged as collateral against the loan. Thus began a process which lasted 16 months to its point of conclusion and included five trips to Washington, countless letters and telephone calls, and many good sized containers of Bufferin.

Again, we were the first institution through this process. There were no precedents to follow, no other institution to call for advice. Hopefully what we learned and eventually worked out will be helpful to others. With that goal in mind let me share those factors of the Kansas Wesleyan story and solution which may well pertain to other institutions.

First, it was abundantly clear that the factors which caused the default

to occur were not going to change. To simply meet the default in some fashion even if such funds existed (which they didn't) would only skirt the issue and cause a repeat performance in the not too distant future. The college had overbuilt in residence halls and had never used all the space available. Rosy straight line enrollment projections had brought about overly ambitious and optimistic dormitory construction. Immediately after the last construction project was completed in 1968, which is when the bonds were written with H.U.D., the college began to change. The enrollment declined steadily for five years, then held reasonably constant for eight. Within this latter period the student base shifted toward increasing numbers of commuting students. Kansas Wesleyan is now observing considerable enrollment growth, but it is primarily from new markets which are other than the traditional, full time, residential day students. The result - a growing college but an institution using less than half of the dormitory space constructed through 1968. It is not going to change. The college of the future is different from the institution of 1968. Therefore, we had two issues - paying the default and developing a plan to avoid its reoccurence.

General Observations Number One:

Take a hard look at your future needs for existent residential space and if that view doesn't include the need for all your space, use the moment not only to address whatever default may exist, but to offer a long range solution to its causes. In other words, put out more than the fire. Find the arsonist.

Proceeding on, we were faced with three very difficult realities:

1. We did not have the cash necessary to pay the default.

2. We could not blithely accept the loss of endowment.

3. We had 60 days to address matters.

Quite obviously we needed time to see what possibilities did exist. We asked for and received the first of several 30 or 60 day extensions of the deadline. Thus began a process which included several components, some of which were unnecessary and wasteful of the time we did have.

First, we wasted time getting more time. Our need for a reasonable period to work out a solution was legitimate and could and should have been granted at the outset. Once it was apparent that the college could not solve matters in sixty days, a six month period of time should have been established within which a solution was to be determined.

Secondly we wasted time arguing with the Department about the change of position they were taking and the appropriateness of trying to collect the due monies as soon as possible. They simply were not and are not in a position to be lenient as was H.U.D. The game plan in Washington is different, and the administration has little sympathy with overdue debtors. The pressure on the Department is real and not conjured, and they have no choice but to do as they are instructed. We were not about to change either the administration's or the department's minds.

Third we developed some very profitable relationships in Washington with people who were willing to help and who did offer good and sound counsel. This was not an inappropriate use of our time. These people knew Washington and how to find some sense and direction in our nation's capitol. Who these people may be would differ for each institution. For us, it was the American Council on Education, the office of Senator Dole, and a legal firm retained by the Council of Small Private Colleges for some work they are doing in this area.

Finally a great deal of time was spent trying to comprehend the Department's request for "a plan". For the first three meetings held in the Department of Education, they asked for "a plan" from Wesleyan which would address the situation. We had not the remotest idea as to what kind of plan was feasible which could result in a college paying up and off all loan monies due on buildings which were being half used and, as a result, providing insufficient revenues to meet even current obligations. Perhaps because we were the first college in such a bind, the Department could offer us no guidance or precedents to follow in the determination of "a plan".

General Observations Number Two:

1. Insist at the outset on a realistic period of time to determine the solution to your situation. You deserve it and they should grant it.
2. Engage in no debates over administration policy as related to delinquent loans. That will accomplish nothing.
3. Find outside counsel immediately be it either from the Washington scene or from one who has been through the process. Use political contacts if and as they can be influential.
4. Ask the Department at the outset for some suggestions as to what the requested plan might include. There are now precedents to follow, institutions who have worked matters out. Ask who they might be and consult with them.

Quite by accident our "plan" was discovered. It came from an almost off hand comment by one from the Department. It has been worked out and is now operative.

The financing of our five buildings had been meshed into four bonds each of which had no direct relation to the buildings. We were expected to make bi-annual principal and interest payments in single lump sum payments on the totals flowing from all four bonds.

The new plan as drafted and now approved includes the follcwing components:

1. Draft a Supplemental Bond Indenture which identifies the monies due on each building.
2. Pay those monies off from the revenues from the buildings over 35 years, thereby extending our obligations to the statutory limit of 50 years from the issuance of the original bonds.
3. Incorporate into the monies due all past due principal, building by building.
4. Pay off any past due interest immediately (for us that was $60,000 of the total in arrears).
5. Assign all resident students so as to permit some buildings to be full thereby generating sufficient revenues from room charges to cover the obligations on those buildings only.
6. Explore other use of the buildings not needed for student housing, including the possibility of lease or sale of same, the revenues generated to be sufficient to pay off the obligations on those buildings.
7. To achieve time to accomplish number 6, apply for a moratorium on a year to year basis only on these unused buildings.

We have determined that one building might best be at least partially needed by the college in the future. We have leased its first floor to a family practice medical clinic, and some of the second to our church denomination for

office use. The remaining space will be used as dormitory rooms. We have closed one building with the frank realization that we will not need it in the future. We are seeking ways to sell or lease this at a price which will retire its full indebtedness.

This plan is advantageous to the college because it could lead to a refinancing of the dorms in a fashion that not only addresses the current principal in default but makes long range fiscal sense. The harsh realities attendant to this approach are that it requires the college to make some decisions about its facilities which are permanent in nature and could well lead to the loss of one of the buildings. If, however, the college is changing, and if those changes are truly basic to the shape and stature of the institution, then perhaps it is high time that the decisions are made. They could well be decisions which should have been honestly faced several years ago. Necessity has oftentimes forced some common sense planning by colleges.

General Observations Number Three:

Take a hard even brutal look at the present and future of the college and its facilities needs. Don't be romantically attached to the plans and ideals of what the college once was or planned to be. Face its todays and tomorrows very, very honestly, align your buildings accordingly, and finance them with the overall fiscal health of the college at the forefront of your thinking.

Do everything possible to make each building fiscally responsible for itself. Move away from intertwining plans where the total residence hall system is pulled down by empty and unneeded facilities. That kind of financing only pulls the entire institution down.

Proceed with dispatch and do so believing that the government, through the Department, wants to find solutions for all institutions and does not

want to take such actions as will permanently damage or harm any college. Any bureaucracy has those who relish in the imposition of statutes and regulations even if a college or two must pay a severe price.

The federal government is no exception. There are also in Washington, however, those very concerned about the many small colleges who are doing such a valiant job in a very challenging decade. They want to help so long as their needs and requirements are also being met.